

**REMARKS**

Claims 21-52 have been examined, and claims 34-52 have been withdrawn from consideration for being directed to a non-elected invention and/or species. Of the examined claims, claims 21, 22, 25, 26, and 29-31 have been rejected under 35 U.S.C. § 102(e), and claims 23, 24, 27, 28, 32, and 33 have been rejected under 35 U.S.C. § 103(a). Also, Applicants have canceled withdrawn claims 34-52 without prejudice or disclaimer.

**I. Rejection under 35 U.S.C. § 102(e) over U.S. Patent No. 5,530,465 to Hasegawa et al. (“Hasegawa”)**

Claims 21, 22, 25, 26, and 29-31 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Hasegawa.

**A. Claim 21**

Applicants submit that claim 21 is patentable over Hasegawa. For example, the claimed method etches simultaneously a second electrode layer, a piezoelectric layer, and a first electrode layer so that a portion of a diaphragm is exposed. The Examiner maintains that the lower electrode 104, piezoelectric film 105, upper electrode 106, and diaphragm 103 shown in Figs. 2A to 2C respectively suggest the first electrode layer, piezoelectric layer, second electrode layer, and diaphragm recited in claim 21.

However, as noted in column 9 of Hasegawa, the lower electrode 104 is formed on the diaphragm 103 by forming layers via a sputtering technique and patterning the layers. (Column 9, lines 22-26). After the electrode 104 is formed, the piezoelectric film 105 is formed on the electrode 104 by forming a PZT film via a sputtering technique and patterning the film. (Column 9, line 26-29). After the film 105 is formed, the upper electrode 106 is formed on the

film 105 by forming layers via a sputtering technique and patterning the layers. (Column 9, lines 34-41).

As clearly described above, in Hasegawa, the electrode 104, film 105, and electrode 106 are sequentially patterned. As such, the reference does not suggest etching simultaneously a second electrode layer, a piezoelectric layer, and a first electrode layer. Thus, Applicants submit that claim 21 is patentable over Hasegawa.

**B. Claim 22**

Since claim 22 depends upon claim 21, Applicants submit that it is patentable at least by virtue of its dependency.

**C. Claim 25**

Since claim 25 contains features that are similar to the features discussed above in conjunction with claim 21, Applicants submit that it is patentable for similar reasons.

**D. Claims 26 and 29**

Since claims 26 and 29 depend upon claim 25, Applicants submit that they are patentable at least by virtue of their dependency.

**E. Claim 30**

Since claim 30 contains features that are similar to the features discussed above in conjunction with claim 21, Applicants submit that it is patentable for similar reasons.

**F. Claim 31**

Since claim 31 depends upon claim 30, Applicants submit that it is patentable at least by virtue of its dependency.

**II. Rejection under 35 U.S.C. § 103(a) over Hasegawa and U.S. Patent No. 5,754,205 to Miyata et al. ("Miyata")**

Claims 23, 24, 27, 28, 32, and 33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hasegawa and Miyata. Since claims 23, 24, 27, 28, 32, and 33 depend upon 21, 25, and 30, and since Miyata does not cure the deficient teachings of Hasegawa with respect to claims 21, 25, and 30, Applicants submit that claims 23, 24, 27, 28, 32, and 33 are patentable at least by virtue of their dependency.

**III. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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